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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,626	03/16/2004	Kim Kwee Ng		2625

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CENTEREACH, NY 11720-3042

EXAMINER

SMITH, KIMBERLY S

ART UNIT

PAPER NUMBER

3644

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/708,626		NG, KIM KWEE	
	<b>Examiner</b>		<b>Art Unit</b>	
	Kimberly S. Smith		3644	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 February 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 41-59 is/are pending in the application.
- 4a) Of the above claim(s) 43,45-47,50,53,54 and 57-59 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 41,42,44,48,49,51,52,55 and 56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 02/17/06 have been fully considered but they are not persuasive. The Applicant has stated that the conical part (24) of the Wilson reference is very different from the crawl path (420) of the instant application in that in the applicant's device, the passage is made of a plurality of flexible tines and deflectable strips. This is the same design concept of the Wilson device in which the crawl path for the insect is defined by the flexible strips. The Applicant has pointed to conical part (24) as the disclosed crawl path. However, in the Wilson device the insect is to crawl into the device through the deflectable strips thereby defining the crawl path and not along the conical part as contended by the Applicant. It is the deflectable strips which provide for the crawl path, not the conical part of the Wilson reference.
2. With respect to the Applicant's arguments that the teeth as disclosed by Earwood are very different in physical appearance and structure to those disclosed by the Applicant's tines, this argument is not found persuasive. The Applicant has not positively pointed out the structural differences of the teeth of Earwood and the tines as disclosed in the instant application. It is noted that a tine is synonymous with a tooth (*Roget's New Millennium™ Thesaurus, First Edition (v 1.1.1)*) and as such, the Earwood reference discloses a device which is inclusive of tines. The rejection is maintained.

### ***Election/Restrictions***

3. Newly submitted claims 43, 45-47, 50, 53, 54 and 57-59 include the subject matter originally presented in claims 23, 25-28, 31, 34, 35 and 38-40 which were withdrawn from

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prosecution. Accordingly, claims 43, 45-48, 50, 53, 54 and 57-59 are withdrawn from consideration as being directed to a non-elected invention as per the election filed June 3, 2005.

***Claim Rejections - 35 USC § 102***

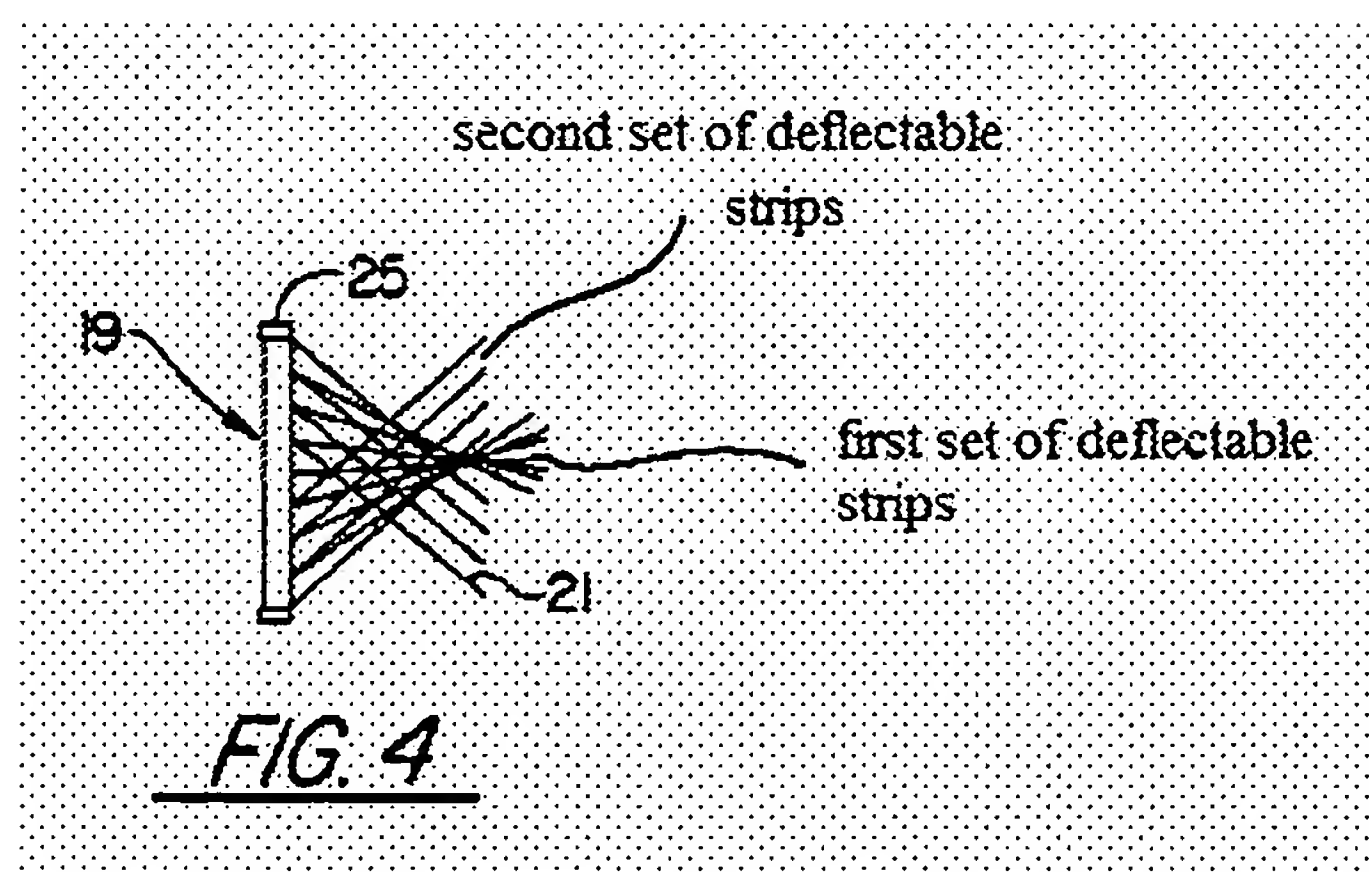
4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 41 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilson, US Patent 6,158,165.

Wilson discloses an insect trap comprising an aperture (at 19), a first set of deflectable strips (i.e. the more interior of the disclosed strips at 21, as seen at the right), an enclosure for surrounding the crawl path (24) and an insect attractant (17) wherein the insect enters the aperture and deflects the strips which then return to a closed position once the insect has departed the strips (column 2, lines 4-7)



Regarding claim 42, Wilson discloses the enclosure comprises a second set of a plurality of deflectable strips (i.e. the more exterior of the disclosed strips at 21, as seen in the Figure above).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 44 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson, US Patent 6,158,165 as applied to claim 41 above in view of Earwood, US Patent 1,655,361.

Wilson discloses the invention substantially as claimed. However, Wilson does not disclose the use of an array of tines mounted to the underside of the deflectable strips. Earwood teaches within the same field of endeavor the use of an array of tines (21) mounted to the underside of the deflectable strips to deter the captured animal/insect from exiting the trap. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the array of tines as taught by Earwood with the device of Wilson in order to deter the insect from exiting the trap.

Regarding claim 52, reference discussion above regarding claims 41 and 44.

8. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson, US Patent 6,158,165 as applied to claim 41 above in view of Harwoods, US Patent 4,244,135.

Wilson discloses the invention substantially as claimed including the use of an insect attractant (17). However, Wilson does not disclose the attractant being a slidable tray. Harwoods teaches within the same field of endeavor the use of a slidable tray containing attractant so as to allow for replenishment of the bait while there are still living insects within the container (column 1, lines 44-51). It would have been obvious to one having ordinary skill in the

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art at the time the invention was made to use the tray as taught by Harwoods with the device of Wilson so as to allow for replenishment of the bait without having to wait for all of the trapped insects to die.

9. Claims 49 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson in view of Harwoods as applied to claim 48 above, and further in view of Walker, US Patent 5,896,695.

Wilson as modified discloses the invention substantially as claimed. However, Wilson as modified does not disclose a cross-wired mesh cover covering the tray. Walker teaches within the same field of endeavor the use of a cross-wired mesh cover (36) for placement over a tray in order to preclude the ingestion of the insect attractant (column 5, lines 12-15). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the mesh screen as taught by Walker with the device of Wilson as modified in order to prevent the insects from ingesting the insect attractant thereby increasing the useful lifespan of the insect attractant.

Regarding claim 55, reference discussion of claims 41, 48 and 49 above.

10. Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson, US Patent 6,158,165 in view of Ridings, US Patent 3,996,690.

Wilson discloses the invention substantially as claimed. However, Wilson does not positively disclose the type of insect attractant to be used. Ridings teaches within the same field of endeavor the use of a hollow cartridge (8) containing segments of adhesive sticky material (18) for the attraction of insects. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the adhesive strip as taught by Ridings with the



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device of Wilson as sticky paper is known to be a functional equivalent of any type of insect attractant (column 2, lines 24-27) and would be obvious to use such dependent upon the type of insect the users wishes to attract.

11. Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson as modified as applied to claim 55 above, and further in view of Earwood, US Patent, 1,655,361.

Wilson as modified discloses the invention substantially as claimed. However, Wilson does not disclose the use of an array of tines mounted to the underside of the deflectable strips. Earwood teaches within the same field of endeavor the use of an array of tines (21) mounted to the underside of the deflectable strips to deter the captured animal/insect from exiting the trap. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the array of tines as taught by Earwood with the device of Wilson in order to deter the insect from exiting the trap.

### ***Conclusion***

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly S. Smith whose telephone number is 571-272-6909. The examiner can normally be reached on Monday thru Friday 10:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kimberly S Smith  
Examiner  
Art Unit 3644

kss

FRANK PALO  
PRIMARY EXAMINER

*Francis T. Palo*  
5/1/06